

4/20/2023

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

LAURA A. AUSTIN, CLERK
BY KRISTIN AYERSMAN
DEPUTY CLERK

UNITED STATES OF AMERICA)
v.)
2505 Orr Street, Big Stone Gap, VA and) Court No.
2512 Orr Street, Big Stone Gap, VA)

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this Complaint for Forfeiture *In Rem* and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

NATURE OF THE ACTION

1. This is a civil action *in rem* brought to forfeit and condemn certain real property assets to the use and benefit of the United States, pursuant to 21 U.S.C. § 881(a)(7), for violations of 21 U.S.C. §§ 841(a), 846, and 856(a)(1).

THE DEFENDANTS *IN REM*

2. The defendants are the real property known and numbered as 2505 Orr Street, Big Stone Gap, VA, (record owner: Eddie Glenn Westmoreland, Sr.) with all appurtenances, improvements, and attachments thereon, and is more fully described in Attachment A; and the real property known and numbered as 2512 Orr Street, Big Stone Gap, VA, (record owners: Eddie Glenn Westmoreland and Tiny L. Westmoreland) with all appurtenances, improvements, and attachments thereon, and is more fully described in Attachment B.

JURISDICTION AND VENUE

3. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1335(b).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1335(b)(1) because the acts giving rise to this forfeiture occurred in this district and/or pursuant to 28 U.S.C. § 1395 because the property is located in this district.

6. The defendant real property has not been seized but is located within this district and within the jurisdiction of the Court. The United States does not request authority from the Court to seize the defendant real property at this time. The United States will, as provided by 18 U.S.C. § 985(b)(1) and (c)(1):

- a. post notice of this action and a copy of the Complaint on the defendant real property, and
- b. serve notice of this action on the defendant real property owner, and any other person or entity who may claim an interest in the defendant, along with a copy of this Complaint, and
- c. execute a writ of entry for purposes of conducting an inspection and inventory of the property, and
- d. file a lis pendens in county records of the defendant real property's status as a defendant in this *in rem* action.

BASIS FOR FORFEITURE

7. The defendant properties are subject to forfeiture pursuant to 21 U.S.C. § 881(a)(7), as property that was used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of 21 U.S.C. §§ 841(a), 846, and/or 856.

FACTS

I. Michael White's Murder of Officer Chandler

8. On November 13, 2021, Michael Donivan White called Lucille Vanover requesting she meet him at Defendant 2505 Orr Street to give her methamphetamine.

9. Vanover went to Defendant 2505 Orr Street, where White showed her approximately a quarter ounce of methamphetamine.

10. On November 13, 2021, at approximately 4:00 AM, Big Stone Gap Police Officer Michael Chandler responded to a welfare check call at Defendant 2505 Orr Street while on duty.

11. Officer Chandler arrived at Defendant 2505 Orr Street in uniform in a marked police vehicle. Upon arrival, Officer Chandler encountered White and Vanover in a vehicle parked in the driveway.

12. White shot Officer Chandler, and Officer Chandler later succumbed to his wounds from the shooting.

13. A search of the vehicle White occupied during the shooting revealed numerous items, including 10.77 grams of methamphetamine, oxycodone pills, gabapentin pills, buprenorphine, tizanidine, and marijuana.

II. Drug Distribution Activity at the Defendant Properties

14. Defendant 2505 Orr Street is commonly referred to as the “red house.”

15. Wise County Sheriff’s Office (WCSO) records reveal that from August 1, 2021, to October 25, 2022, there have been approximately 54 calls for service (including 911 calls) to the red house.

16. Defendant 2512 Orr Street is commonly referred to as the “white house.”

17. WCSO records reveal that from August 1, 2021, to October 25, 2022, there have been approximately 24 calls for service (including 911 calls) to the white house.

18. Tiny Lou (“Tina”) Westmoreland, Tyler Lee Westmoreland, Michael White, Elicia Amber Burns, Lucille Vanover, Jimmy Peters, and others resided at the white house.

19. Tina Westmoreland is a methamphetamine user.

20. Tina Westmoreland bought and sold methamphetamine weekly at the white house when she had the money.

21. Tina Westmoreland purchased 8-ball to $\frac{1}{4}$ ounce quantities of methamphetamine from Brian Mullins, who delivered drugs to her at the red house and white house.

22. Tina Westmoreland purchased 8-ball to $\frac{1}{4}$ ounce quantities of methamphetamine from James Worley, who delivered drugs to her at the red house.

23. Tina Westmoreland purchased 8-ball to $\frac{1}{4}$ ounce quantities of methamphetamine from Rome Estep, who delivered drugs to her at the red house.

24. Tyler Westmoreland is Tina Westmoreland's son.

25. Tyler Westmoreland is a methamphetamine user.

26. White is a methamphetamine user.

27. White used and sold methamphetamine, among other drugs, from both the red house and the white house.

28. Timmy Jones delivered White and Tina Westmoreland's supply of methamphetamine to the white house.

29. Burns is a methamphetamine user.

30. Burns used and bought methamphetamine at the white house.

31. Vanover is a methamphetamine user.

32. Vanover used and bought methamphetamine at the white house.

33. Peters is a methamphetamine user.

34. On December 12, 2021, at 2:20 AM, White placed an audio call to Misty Lynn Ward using the Southwest Regional Jail system. White told Ward, "I was trapping that motherfucker out. I was punishing Orr Street. I was moving, I was working some dope out that bitch."

35. On December 13, 2021, at 11:48 AM, White placed an audio call to Kacie Werner using the Southwest Regional Jail system. Werner told White she needed money, to which White responded that all Werner needed to do was sit at the Orr Street house because there was a good \$300 to \$400 a day that comes in there in “points,” \$10 a point, \$100 per gram.

36. On December 13, 2021, at 6:51 PM, White placed an audio call to Ward using the Southwest Regional Jail system. White told Ward not to give Werner any cash. White told Ward that he told Werner to “go over there and talk to Tyler (Westmoreland) and Amber (Burns), sit your happy ass right there on Orr Street and pick up all the \$20/\$30/\$40/\$50/\$60 serves right there, all selling points, and make you some fucking money.” White told Ward to “Break her [Werner] off like a half a ball or something.”

37. On December 13, 2021, at 7:02 PM, White placed an audio/video call to Ward using the Southwest Regional Jail system. White told Ward, in reference to the Orr Street properties, “There’s good fucking money that comes through there every day, \$150-200 if not \$300-350. You sit there with a fucking bag and a fucking set of scales, and you point it the fuck out, \$10 a point.”

A. Specific Instances of Drug Distribution

38. In 2021, White gave and sold Tina Westmoreland methamphetamine at the white house.

39. In late summer 2021, a witness purchased \$30 worth of methamphetamine from White at the red house.

40. In October of 2021, White robbed Hailee Dietz of methamphetamine at gunpoint in the driveway of the white house.

41. In 2021, Christopher Bates purchased approximately a gram of methamphetamine from White once or twice a week. Approximately 10 of those purchases occurred at the white house, including an “8-ball” of methamphetamine.

42. On November 12, 2021, White and Ward injected methamphetamine in a vehicle at the red house. This same evening Timmy Jones came to the red house and sold White an “8-ball” of crystal methamphetamine.

43. In 2021, Burns received heroin and/or fentanyl from White at the white house. Burns used it and overdosed.

44. In late 2021, Tina Westmoreland saw Brian Mullins with 4 to 5 ounces of methamphetamine while at the white house.

45. In the summer of 2022, Burns again overdosed at the red house.

46. After Burns’s second overdose, Tina Westmoreland began placing Narcan in every room in the red house and white house.

47. In the summer of 2022, Brandon Moore overdosed at the red house and was revived with Narcan.

48. In 2022, Tyler Westmoreland overdosed at the white house and was revived with Narcan.

49. In the summer of 2022, Tina Westmoreland purchased an 8-ball of methamphetamine from James Worley who delivered to her at the red house.

50. In the fall of 2022, Tina Westmoreland purchased $\frac{1}{4}$ ounce, gram, and 8-ball quantities of methamphetamine from Rome Estep, who delivered to her at the red house.

51. In 2021 and 2022, Tina Westmoreland sold methamphetamine to Melvin Carter and Heather Johnson at both the red house and the white house.

III. Federal Criminal Drug Distribution Indictments

52. On October 21, 2022, United States Magistrate Judge Pamela Meade Sargent found probable cause to issue arrest warrants for 19 individuals for conspiracy to distribute methamphetamine in violation of 21 U.S.C. §§ 841, 846, and 841(b)(1)(A). Those charged and arrested on the conspiracy charge include White, Tina Westmoreland, and Tyler Westmoreland.

53. On October 21, 2022, United States Magistrate Judge Pamela Meade Sargent also found probable cause to issue an arrest warrant for White for possession with the intent to distribute methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a) and 841(b)(1)(B). The methamphetamine underlying this charge was the 10.77 grams of methamphetamine in the car from which White shot Officer Chandler, located at 2505 Orr Street, on November 13, 2021.

54. On October 21, 2022, United States Magistrate Judge Pamela Meade Sargent also found probable cause to issue arrest warrants for White, Tina Westmoreland, and Tyler Westmoreland for unlawfully and knowingly using or maintaining a place, whether permanently or temporarily, for the purpose of distributing and using any controlled substance, in violation of 21 U.S.C. § 856(a)(1). The places where the violations occurred were the Defendant Properties.

55. Tina Westmoreland entered into a settlement agreement on November 1, 2022. Pursuant to the written plea agreement, she pled guilty to one count of conspiring to distribute and possess with the intent to distribute 50 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B); and one count of using or maintaining a place, located at 2512 Orr Street and 2505 Orr Street, for purpose of distributing or using any controlled substance in violation of 21 U.S.C. § 856(a)(1).

56. Tina Westmoreland is currently scheduled to be sentenced on November 27, 2023.

57. Tyler Westmoreland entered into a written plea agreement on November 4, 2022. Pursuant to the written settlement agreement, he pled guilty to one count of conspiring to distribute and possess with the intent to distribute 50 grams or more of a mixture or substance containing methamphetamine, in violation of 12 U.S.C. §§ 846 and 841(b)(1)(B); and one count of using or maintaining a place, located at 2512 Orr Street and 2505 Orr Street, for purpose of distributing or using any controlled substance in violation of 21 U.S.C. § 856(a)(1).

58. Tyler Westmoreland is currently scheduled to be sentenced on November 27, 2023.

59. On November 16, 2022, a federal grand jury in the Western District of Virginia returned an indictment against White, and five co-defendants, charging him with (1) conspiracy to distribute and possess with the intent to distribute 500 grams or more of a mixture of substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. § 841; (2) possession with the intent to distribute 5 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B); (3) using or maintaining a place, located at 2512 Orr Street and 2505 Orr Street, for purpose of distributing or using any controlled substance in violation of 21 U.S.C. § 856(a)(1); and using a communication facility in committing and in causing and facilitating the commission of any act constituting a felony controlled substance offense, in violation of 21 U.S.C. § 843(b) and 843(d), among other gun crimes and murder of Officer Chandler.

60. White's criminal case is currently set for trial November 6 through 17, 2023.

IV. Eddie and Tiny Westmoreland Are Aware of Criminal Activity at the Defendant Properties

61. In approximately 2019 or 2020, Eddie Westmoreland and his wife, Tiny Westmoreland, moved from the white house to another residence in Big Stone Gap, Virginia.

62. After moving from the white house, Eddie and Tiny Westmoreland knew Tina Westmoreland (their daughter) and Jimmy Peters had moved into the white house.

63. Eddie and Tiny Westmoreland knew Tina Westmoreland and Jimmy Peters did not have jobs.

64. Eddie and Tiny Westmoreland did not charge Tina Westmoreland and Jimmy Peters for rent or utilities.

65. Eddie Westmoreland visited the red and white house on an almost daily basis to check on the properties, clean up trash and pick up the mail.

66. Tiny Westmoreland would accompany Eddie Westmoreland every few days on his visits to the red house and white house. On occasion, Tiny Westmoreland would enter the homes to check on Tina Westmoreland.

67. Eddie Westmoreland stated that he knew Tina Westmoreland and Jimmy Peters shot up methamphetamine at the red and white houses between 2019 and 2022.

68. Eddie Westmoreland saw used intradermal needles in the trash and yard at the red house and white house at various times between 2019 and the present.

69. Eddie Westmoreland saw Narcan at the red house in December 2022, and a tenant told him that it was used for drug overdoses.

70. Eddie Westmoreland found what he suspected to be drugs, burnt methamphetamine, smoking pipes, and used needles while cleaning the red house and white house at various times between 2019 and the present.

71. Eddie Westmoreland knew Tina Westmoreland, Tyler Westmoreland, and Jimmy Peters had stolen thousands of dollars' worth of tools and personal property from the red house and white house between 2019 and 2022.

72. In late 2019 or early 2020, one of the neighbors to the Defendant Properties told Eddie Westmoreland that he should move back to the Defendant properties because people were at the Defendant Properties all hours of the night since he moved. Other neighbors told Eddie Westmoreland that police were coming to the Defendant Properties frequently.

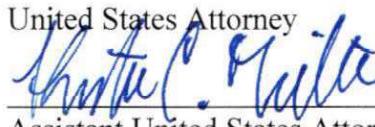
73. Between 2020 and 2022, Melvin Carter, one of Eddie Westmoreland's tenants at the red house, told Eddie Westmoreland that White was using heroin and suspected White was selling drugs.

74. Eddie and Tiny Westmoreland never called the police, charged folks with trespassing, or took any legal action against most of the individuals at the property.

75. The facts are further stated in the attached Declaration of Special Agent William C. Duke, and are fully incorporated by reference.

WHEREFORE, the United States prays that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant property to be condemned and forfeited to the United States for disposition according to law; and that the United States be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

CHRISTOPHER R. KAVANAUGH
United States Attorney

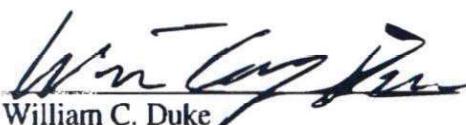

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VERIFICATION

I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and one of the agents assigned the responsibility for the above-captioned matter. I have read the contents of the foregoing Complaint for Forfeiture, and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 17 day of April, 2023.


William C. Duke
Special Agent, ATF